

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DUCHUN LAFRE GOODWIN,

Plaintiff,

v.

STATE FARM GENERAL INSURANCE
COMPANY, LAURA SHELBY, DAVID
PELIGRINO,

Defendants.

Case No. 1:23-cv-00165-HBK

SCREENING ORDER GRANTING
PLAINTIFF LEAVE TO FILE AMENDED
COMPLAINT

May 22, 2023, DEADLINE

Plaintiff, Duchin Lafre Goodwin (“Goodwin”), who is proceeding pro se and *in forma pauperis* initiated this action on February 2, 2023, by filing a form “Complaint for a Civil Case.” (Doc. No. 1, “Complaint”). Plaintiff’s Complaint is before the Court for screening pursuant to 28 U.S.C. § 1915(e)(2)(B).

I. Screening Requirement

Because Plaintiff is proceeding *in form pauperis*, the Court may dismiss a case “at any time” if the Court determines, *inter alia*, the action is frivolous or malicious, fails to state claim on which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C § 1915(e)(2)(B)(ii) -(iii); *see also Lopez v. Smith*, 203 F. 3d 1122, 1129 (9th Cir. 2000) (section 1915(e) applies to all litigants proceeding *in form pauperis*). A complaint, however, should not be dismissed unless it appears beyond doubt that the plaintiff can

1 prove no set of facts in support of his or her claim that would entitle him to relief. *Johnson v.*
 2 *Knowles*, 113 F.3d 1114, 1117 (9th Cir.), *cert. denied*, 552 U.S. 996 (1997). A complaint must
 3 include a short and plain statement of the claim showing that the pleader is entitled to relief. Fed.
 4 R. Civ. P. 8(a). Dismissal for failure to state a claim in this context is governed by the same
 5 standard as dismissal under Federal Rule of Civil Procedure 12(b)(6). *Barren v. Harrington*, 152
 6 F. 3d 1193, 1194 (9th Cir. 1998). As such, a complaint must contain sufficient factual matter to
 7 state a claim to relief that is “plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).
 8 “A complaint is plausible on its face when it contains sufficient facts to support a reasonable
 9 inference that the defendant is liable for the misconduct alleged.” *Id.* At this stage, the court
 10 accepts the facts stated in the complaint as true. *Hosp. Bldg. Co. v. Rex Hosp. Tr.*, 425 U.S. 738,
 11 740 (1976). The Court does not accept as true allegations that are merely conclusory,
 12 unreasonable inferences, or unwarranted deductions. *Western Mining Council v. Watt*, 643 F.2d
 13 618, 624 (9th Cir. 1981). Nor are legal conclusions considered facts. *Iqbal*, 556 U.S. at 678.

14 Due to Plaintiff’s pro se status, the Court must liberally construe the Complaint in the
 15 light most favorable to the Plaintiff. *Jenkins v. McKeithen*, 395 U.S. 411, 421 (1969); *Bernhardt*
 16 *v. L.A. County*, 339 F.3d 920, 925 (9th Cir. 2003). If a pleading could be cured by the allegation
 17 of other facts, a pro se litigant is entitled to an opportunity to amend a complaint before dismissal
 18 of the action. *See Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc); *Lucas v.*
 19 *Department of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995). However, it is not the role of the Court to
 20 advise a litigant on how to cure the defects. Such advice “would undermine district judges’ role
 21 as impartial decisionmakers.” *Pliler v. Ford*, 542 U.S. 225, 231 (2004); *see also Lopez*, 203 F.3d
 22 at 1131 n.13.

23 II. Summary of Complaint

24 In addition to naming Goodwin as Plaintiff, the Complaint identifies Philip Call as a
 25 Plaintiff. (Doc. No. 1 at 2).¹ Notably, Plaintiff Goodwin only signed the Complaint. (*Id.* at 6).
 26 The Complaint names the following Defendants: (1) Poonam Kalsi, Claims Specialist; (2) Laura

27 ¹ The Court refers to the CMECF page numbers of the Complaint. In this case, the CMECF page numbers
 28 correspond to the same page numbers on the Complaint.

Selby, Claims Team Manager; and (3) David Peligrino, Claims Adjuster. (*Id.* at 2-3). Under the “Basis of Jurisdiction” section of the Complaint, Plaintiff checks neither of the boxes which enable a plaintiff to choose either “federal question” or “diversity” jurisdiction. (*Id.* at 3). When requested to list the “Basis for Jurisdiction” if a jurisdiction is predicated upon a “Federal Question,” Plaintiff states: “Sections 102 and 103 of the Civil Rights Act of 1991.” (*Id.* at 4). When requested to list the “Basis for Jurisdiction” if jurisdiction is predicated upon “Diversity,” Plaintiff indicates he is a citizen of the State of Californian and identifies Defendant State Farm General Insurance Company as a citizen of California but does not list the citizenship of any other Defendants. (*Id.* at 4-5).

Under the “Statement of Claim” section, Plaintiff writes:

Intentional discrimination. Breach of contract, malice with intent to cause harm and that time was an [sic] state emergency pandemic, when I was victim of a hate crime and state farm continued with insurance agent negligence to consumer safety.

(*Id.* at 5). As relief, Plaintiff seeks “above” \$75,000 for pain and suffering and breach of contract, as well as punitive damages. (*Id.* at 5-6).

III. Analysis

At the outset, the Complaint is not signed by Philip Call. As a pro se litigant, Plaintiff may not prosecute a case on behalf of another individual. A litigant in federal court has a right to act as his own counsel. *See* 28 U.S.C. § 1654. However, a pro se litigant does not have authority to represent anyone other than themselves. *See Simon v. Hartford Life, Inc.*, 546 F.3d 661, 664 (9th Cir. 2008) (non-attorney may not attempt to pursue claim on behalf of others in a representative capacity). Thus, Plaintiff may not prosecute this case on behalf of anyone other than himself.

Next, as an initial matter, “[c]ourts have an independent obligation to determine whether subject-matter jurisdiction exists, even when no party challenges it.” *Hertz Corp. v. Friend*, 559 U.S. 77, 94 (2010). A federal court is presumed to lack subject matter jurisdiction, and a plaintiff bears the burden of establishing that subject matter jurisdiction is proper. *See Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377 (1994). If a federal court lacks subject matter

1 jurisdiction, the action must be dismissed. Fed. R. Civ. P. 12(h)(3).

2 Liberal construed, Plaintiff asserts his claims are based both on a federal question and
3 diversity of citizenship. Although Plaintiff does not identify a specific federal question upon
4 which this case is based, he lists “Sections 102 and 103 of the Civil Rights Act of 1991.” The
5 Civil Rights Act of 1991 provides for protection against discrimination and harassment in the
6 workplace. *See* Civil Rights Act of 1991, Pub.L. No. 102–166; § 102, 105 Stat. 1071 (U.S.C.S.,
7 Adv. Legis. Serv., Lawyers, Coop. Pub. Co.). Section 102 of the Civil Rights Act of 1991 allows
8 a plaintiff bringing a charge of intentional discrimination, made unlawful under the Civil Rights
9 Act of 1964 (42 U.S.C. §§ 2000e–2, or 2000e–3), to recover compensatory and punitive damages.
10 *Id.* Section 103, which amended 41 U.S.C. § 1988, allows for recovery of attorney fees in certain
11 intentional discrimination cases. *Id.*

12 Nonetheless, the Complaint contains no facts pertaining to any named Defendant. Nor
13 does the Complaint describe any action by any Defendant that amounts to a violation of
14 Plaintiff’s federal rights under the Civil Rights Act of 1991. Other than identifying the
15 Defendants under the list of Defendants, no individual Defendant is named anywhere in the
16 Complaint. Further, the Complaint contains only vague and conclusory statements alleging
17 “intentional discrimination” and implying a potential breach of contract. As currently pled, the
18 Complaint does not contain enough factual details to permit the Court to draw the reasonable
19 inference that any named Defendant is liable for any misconduct to sustain a federal violation
20 under the Civil Rights Act of 1991. *Iqbal*, 556 U.S. at 678. For these reasons, Plaintiff’s
21 Complaint does not comply with the requirements of Rule 8(a)(2).

22 Additionally, it appears that Plaintiff predicates this action on diversity, i.e., where the
23 amount in controversy exceeds \$75,000, exclusive of interest and costs, and where the matter in
24 controversy is between citizens of different states. *See* 28 U.S.C. § 1332(a)(1). However,
25 diversity of citizenship requires that each of the plaintiffs be a citizen of a different state than each
26 of the defendants. *See Williams v. United Airlines, Inc.*, 500 F.3d 1019, 1025 (9th Cir. 2007)
27 (citing *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 553 (2005)); *Morris v.*
28 *Princess Cruises, Inc.*, 236 F.3d 1061, 1067 (9th Cir. 2001). While the Complaint asserts the

amount in controversy is more than \$75,000, Plaintiff state both he and Defendant State Farm are citizens of California.² (Doc. No. 1 at 4-5). Thus, on the Complaint's face, it appears the Court would lack diversity jurisdiction.

IV. Conclusion and Options

To continue the prosecution of this action, Plaintiff must take one of the following three options on or before May 22, 2023. **First Option:** Because the Court cannot determine that the filing of an amended complaint cannot cure the deficiencies identified above, the Court will afford Plaintiff an opportunity to file an amended complaint if he chooses. Fed. R. Civ. P. 15(a)(2); *Lopez v. Smith*, 203 F.3d 1122, 1126-30 (9th Cir. 2000). An amended complaint supersedes (replaces) the original complaint and, thus, the amended complaint must be free-standing and complete. *Lacey v. Maricopa County*, 693 F.3d. 896, 907 n.1 (9th Cir. 2012) (*en banc*); E.D. Cal. Local Rule 220. Each claim and the involvement of each defendant must be sufficiently alleged. The amended complaint should title "First Amended Complaint," include the above case number, and be an original signed and dated under penalty of perjury. Plaintiff may not change the nature of this suit or adding unrelated claims in his amended complaint. *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) (no "buckshot" complaints). **Second Option:** Plaintiff may file a Notice stating he intends to stand on his current complaint subject to the undersigned recommending the district court dismiss for the reasons stated in this Order. **Third Option:** Because no defendant has yet been served, Plaintiff may file a Notice of Voluntarily Dismissal without prejudice under Federal Rule of Civil Procedure 41(a)(1). Alternatively, if Plaintiff fails to timely respond to this Court Order, *i.e.*, fails to perform any of the three options, the undersigned will instead recommend that the district court dismiss this case as a sanction for Plaintiff's failure to comply with a court order and for failing to prosecute this action.

////

////

² See *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006) (It is well settled that a corporation is a citizen of "(1) the state where its principal place of business is located, and (2) the state in which it is incorporated." (Citing 28 U.S.C. § 1332(c)(1)).

Accordingly, it is **ORDERED**:

1. **On or before May 22, 2023**, Plaintiff shall take one of the following actions: (a) file a First Amended Complaint; (b); file a Notice that he intends to stand on the Complaint as screened subject to the undersigned recommending the district court to dismiss certain claims and Defendants for the reasons stated in this Order; (c) file a Notice to voluntarily dismiss this action without prejudice under Fed. R. Civ. P. 41.

2. If Plaintiff fails to timely comply with this Court Order or seek an extension of time to comply, the Court will recommend the district court dismiss this action for Plaintiff's failure to comply with this Court Order and prosecute this action.

3. The Clerk of Court shall include a blank non-prisoner civil rights complaint form for Plaintiff's use as appropriate.

Dated: April 20, 2023


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE